

WHAT IS A GOOD CATHOLIC?

DIFFERENCE OF OPINION ON THAT POINT.

REV. DR. E. L. BURTELL CLOSURE HIS TESTIMONY FOR THE MCGUIRE—THE CHURCH AUTHORITIES DEFEND THEIR POSITION.

The Special Term room of the Supreme Court, in which Justice Beach presided yesterday, was thronged all day with people interested in the trial of the suit in which Philip McGuire seeks to compel the trustees of Calvary Cemetery to permit him to bury the body of his father, John McGuire, in the cemetery. The cross-examination of the Rev. Dr. Richard L. Burtell, of the Roman Catholic Church of the Epiphany, was resumed by Colonel Bliss. An attempt to go into the merits of the McGuire case was checked by the Judge on the objection of Mr. Post. This did not satisfy Colonel Bliss. Holding up a copy of "The Standard" he questioned the witness in regard to an editorial reflecting upon the Archbishop, as follows:

Q—Could a priest use such language regarding his primary and yet remain in good standing? A—In certain contingencies he would be in excellent standing.

This answer was greeted with applause by members of the Anti-Poverty Society and their friends, which was instantly checked by Mr. Post. The witness continued his answer to the question as follows:

If the priest had reason to believe the statement was true and it was made about a notorious action connected with him, he would have a perfect right to use expressions of that kind where the matter was publicly known. He could remain a Catholic in excellent standing.

Q—You mean, then, that a subordinate could accuse his superior in the matter in which his action remained unreviewed and unappealed from? A—If you could prove that I suppose there could be something said.

Q—Is it in accordance with the law of the Church that appeals may be taken to the higher ecclesiastical authority? A—It is.

After Mr. Post had put in evidence regulations governing Calvary Cemetery at the time of the purchase of a plot by McGuire, and had amended his complaint by withdrawing the words "in full communion with the Church," as applied to the defendant, he declared his case closed.

THE DEFENDANTS' CASE.

Colonel Bliss opened the case for the defendant. He said the authorities of the Church had felt it to be their duty, in this case, to defend what they believed to be the true policy of the great Church to which they belonged against this attempt on the part of certain persons, some Catholics, supported by people who were not just upon the verge, uncertain as to whether they were Catholics or not. He stated that the defendants expected to prove that McGuire took his lot in the cemetery subject to the condition of his being a Catholic in good standing. The question whether he was a Catholic in good standing was one to be determined by the ecclesiastical authorities themselves. Colonel Bliss gave a sketch of the McGuire trouble. He said that at the first meeting of the board of St. Stephen's Church language was used that was rarely heard even in the lowest and most excited political meetings. After their exclusion from the church, their meetings were continued elsewhere, and they became incorporated as the Anti-Poverty Society. In all their affairs McGuire took part, adding and counseling, and he died at one of the McGuire meetings. He asserted that the certificate of the Rev. Dr. Burtell, signed by him, was procured by the plaintiff, had been procured by misrepresentation.

Father Colton was the first witness for the defense. He said he wrote the letter certifying that McGuire had received the sacrament on representations made to him, and that he had no knowledge as to the facts.

When Monsignor Preston took the stand, he declared that the Protestant Bible, which was held out to him, and took the usual oath with uplifted hand. He said he was the Vice-General of the Archdiocese of New York, and that the Vice-General was the Archbishop's alter ego.

Q—Something like the President's cabinet officers, is he not? A—Yes, excepting that he has more power.

HE WAS A PUBLIC SINNER.

The witness stated under the direction of the Archbishop he refused burial to McGuire's body on the ground that McGuire had been a public sinner. He said he could not be buried in consecrated ground. The examination proceeded as follows:

Q—Do you know Dr. Edward McGuire? A—Yes.

Q—What was the action of the Archbishop with reference to Dr. McGuire?

This question was objected to, but the objection was overruled on the ground that the defense claimed in the answer that the defendant participated in the McGuire proceedings. In response to this inquiry, the witness stated that he had been present at the McGuire trial. Dr. McGuire had his inquest in the time of Cardinal McCloskey, to whom the Prefect of the Propaganda had written directing him to admonish Dr. McGuire to discontinue his socialist utterances. The witness then repeated the story of the excommunication of Dr. McGuire, and the examination proceeded as follows:

Q—Has any appeal been taken? A—I have heard of an appeal, and I have heard that it was taken.

A letter in Latin from Cardinal Monaco, Prefect of the Sacred Expedition, was translated by the witness. In a decision was given in the case of McGuire with mention of his name, sustaining the action of the Archbishop. Several sections of ecclesiastical law, as laid down by the Plenary Council in Baltimore, were translated and put in evidence. In reply to further questions the witness stated that he understood a "Jubilee" in good standing to be one who had been in communion with the Catholic Church for a period of years. The laws required that a Catholic should go to communion at least once a year. The decrees of the Plenary Council were binding on the Church. On cross-examination the witness stated that he was not a Doctor of Divinity.

Q—You took this action in the McGuire case under the advice of the Archbishop? A—I acted at once and saw the Archbishop the next day.

Q—It was a public fact that McGuire died in the Academy of Music. He was a public sinner.

Q—Whether they are right or wrong? A—Right or wrong.

Q—Is that your idea?

At this there was a shout of approval from the friends of Dr. McGuire. The witness made no reply. Mrs. Patrick Martin, called by Colonel Bliss, testified that McGuire had attended several meetings of the Anti-Poverty Society.

Colonel Bliss stated that he had a number of newspaper men subpoenaed who were present in court and in the street, and that he had been unable to obtain their evidence. His Honor did not think it necessary. Michael Clarke, who has been secretary of the Anti-Poverty Society since its formation, next took the stand. Mr. Post placed in his hand a copy of the constitution of the society with a view of having it admitted as testimony, but Colonel Bliss objected.

Mr. Post-I want to show how harmless the organization is.

Judge Beach-I do not think that it is a material issue, but if you think that it is we will admit it, subject to the objection of opposing counsel.

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